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3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA
5 SAN JOSE DIVISION
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7 ESTATE OF SANDRA VELA, et al.,

8 Plaintiffs,

9 v.

10 COUNTY OF MONTEREY, et al.,

11 Defendants.
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Case No. 16-cv-02375-BLF

**ORDER DENYING WITHOUT
PREJUDICE THE PARTIES'
STIPULATED REQUEST FOR AN
ORDER REQUIRING CFMG TO
PRODUCE MEDICAL AND MENTAL
HEALTH RECORDS IN RESPONSE TO
PLAINTIFFS' REQUEST FOR
PRODUCTION OF DOCUMENTS, SET
ONE**

[Re: ECF 98]

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16 On October 18, 2017, Magistrate Judge Howard R. Lloyd issued an Order Re Discovery
17 Dispute Joint Report No. 1 (ECF 92), in which he granted Plaintiffs' motion to compel California
18 Forensic Medical Group ("CFMG") to produce documents relating to suicides and suicide
19 attempts at the Monterey County Jail. The responsive documents include medical and mental
20 health records subject to privacy protections under state and federal statutes. Plaintiffs and CFMG
21 now submit a stipulated proposed order for production of those medical and mental health records
22 notwithstanding applicable statutory protections, stating that "it is impractical" to obtain
23 authorizations from the heirs of individuals who committed suicide or inmates who attempted
24 suicide. Stipulation and Proposed Order, ECF 98.

25 The Court recently considered a request for production of medical and mental health
26 records in *Hernandez, et al. v. County of Monterey, et al.*, 13-cv-02354-BLF. The Court
27 concluded that it had authority to order production, relying in part on cases holding that class
28 counsel in institutional litigation have a right to examine such documents. *See* Order Granting in

1 Part and Denying in Part Plaintiffs' Motion to Enforce Settlement Agreement, ECF 619 in
2 *Hernandez*. The Court is not satisfied that the same policy considerations apply in the present
3 case, which is not an institutional litigation but a suit on behalf of only the named plaintiffs. The
4 parties have not cited cases indicating that the Court has authority to order production of
5 statutorily protected medical and mental health records simply because it is inconvenient or
6 impractical for Plaintiffs to obtain the records through other means.

7 Accordingly, the parties' stipulated request is DENIED WITHOUT PREJUDICE. The
8 parties may submit a renewed stipulated request supported by case law showing that that this
9 Court has discretion to order production of medical and mental health records in a lawsuit which
10 does not involve institutional reform or class litigation, and that any such discretion should be
11 exercised in favor of production here.

12 **IT IS SO ORDERED.**

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14 Dated: December 11, 2017



BETH LABSON FREEMAN
United States District Judge